

110TH CONGRESS  
2D SESSION

# H. R. 6769

To amend title XIX of the Social Security Act to strengthen State and local government efforts to investigate and prosecute fraud and abuse in the Medicaid Program.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2008

Mr. WEINER introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XIX of the Social Security Act to strengthen State and local government efforts to investigate and prosecute fraud and abuse in the Medicaid Program.

1       *Be it enacted by the Senate and House of Representa-  
2       tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Medicaid Fraud Recov-  
5       ery Act of 2008”.

1 SEC. 2. PROMOTING MEDICAID FRAUD INVESTIGATIONS  
2 AND PROSECUTIONS BY LOCAL GOVERN-  
3 MENTS.

4 (a) IN GENERAL.—Section 1903 of the Social Secu-  
5 rity Act (42 U.S.C. 1396b) is amended by adding at the  
6 end the following new subsection:

7 “(aa) USE AND FUNDING OF LOCAL FRAUD  
8 UNITS.—

9 (1) IN GENERAL.—Nothing in this title shall  
10 be construed as preventing a county or other local  
11 government from establishing a local fraud investi-  
12 gative unit to investigate and prosecute provider  
13 and recipient fraud under this title within the juris-  
14 diction of such local government.

15 (2) STATE RECOGNITION AND FUNDING OF  
16 LOCAL UNITS.—In the case of the establishment by  
17 a local government of a local fraud investigative unit  
18 in a State under paragraph (1), the State shall pro-  
19 vide in its State plan under this title the following:

20 (A) RECOGNITION OF UNIT.—The plan  
21 shall recognize such a unit and permit its oper-  
22 ations in accordance with this subsection and  
23 may not establish internal procedures that pre-  
24 vent such a unit from being recognized or func-  
25 tioning.

1                 “(B) DATA SHARING REQUIRED.—The De-  
2                 partment of Health of the State and any ad-  
3                 ministrative unit responsible for claims adminis-  
4                 tration under this title in the State shall make  
5                 available to such unit all data relating to this  
6                 title in the area of such unit.

7                 “(C) PASS-THROUGH PAYMENT OF FFP.—  
8                 The State shall provide for payment, on a pass-  
9                 through basis, to the local government of the  
10                 Federal financial participation received by the  
11                 State under section 1903(a) which is attrib-  
12                 utable to expenses of such unit.

13                 “(D) REPAYMENT OF LOCAL SHARE IN  
14                 CASE OF RECOUPMENT.—In the case of a State  
15                 in which local governments are responsible for  
16                 paying a portion of medical assistance expenses,  
17                 if there is a recoupment of funds under the  
18                 State plan and—

19                         “(i) the recoupment was a result of  
20                 activities of such a unit of local govern-  
21                 ment, the State shall provide for payment  
22                 to the local government of its original  
23                 share of the expenses for which the  
24                 recoupment is made; or

1                         “(ii) the recoupment was not the re-  
2                         sult of activities of such a local government  
3                         unit, the State shall provide for the pay-  
4                         ment described in clause (i) to the local  
5                         government unless otherwise provided  
6                         under an agreement between the State and  
7                         local government involved.

8                         “(E) PAYMENT OF BOUNTY IN CASE OF  
9                         LOCAL PROSECUTION.—If funds under the plan  
10                         are recouped and an investigation by such local  
11                         unit led the recoupment of funds, the State  
12                         shall, from its share of such recouped funds,  
13                         provide for payment to the local government of  
14                         a bounty equal to 10 percent of such recouped  
15                         share.

16                         “(3) EXPLANATION FOR FAILURES TO PROS-  
17                         ECUTE.—If a State refuses to prosecute a case  
18                         which has been referred to it by a local fraud inves-  
19                         tigative unit described in paragraph (1), the State  
20                         must provide to the unit a statement that—

21                         “(A) explains the reasons for such refusal;  
22                         and

23                         “(B) identifies which entity is more appro-  
24                         priate to handle the prosecution or resolution of

1           the case and the reasons for selecting such enti-  
2         ty.

3           “(4) REQUIREMENT FOR SEMI-ANNUAL RE-  
4         PORTS.—As a condition for the provision of pay-  
5         ments to a State (or to a locality under paragraph  
6         (2)(C)) under subsection (a)(6), the State or locality  
7         shall submit semiannual reports to the Secretary.  
8         Such reports shall contain such information on in-  
9         vestigations and prosecutions of fraud under this  
10        title as the Secretary may specify.

11           “(5) METHOD FOR DETERMINATION OF REFER-  
12         RALS.—For purposes of this subsection, the State  
13         shall establish a method for determining whether a  
14         recouptment of funds was a result of activities of a  
15         unit of local government and for identifying cases in  
16         which a local fraud investigative unit has referred a  
17         case for prosecution.”.

18 **SEC. 3. ENHANCED MEDICAID FUNDING FOR ANTI-FRAUD**  
19           **ACTIVITIES.**

20           (a) IN GENERAL.—Section 1903(a)(6)(B) of the So-  
21         cial Security Act (42 U.S.C. 1396b(a)(6)(B)) is amended  
22         by inserting before the semicolon at the end the following:  
23         “plus, not subject to the limitations of subsection (b)(3),  
24         66½ percent of such additional sums expended in the  
25         quarter for fraud investigative activities, whether con-



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1 ducted by such unit or by local fraud investigative units  
2 described in subsection (aa)(1)".

3 (b) EFFECTIVE DATE.—The amendment made by  
4 paragraph (1) shall apply to expenditures occurring on or  
5 after October 1, 2008.

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